

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

MAR 09 2006

JAMES R. LARSEN, CLERK  
RICHLAND, WASHINGTON DEPUTY

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN  
DISTRICT OF WASHINGTON AT RICHLAND

James S. Gordon, Jr., Plaintiff,

vs.

Impulse Marketing Group, Inc.,

Defendant

Impulse Marketing Group, Inc.,

Third-Party Plaintiff,

v.

Bonnie F. Gordon, Third-Party

Defendant

Case No.: CV-04-5125-FVS

AMENDED MOTION TO  
COMPEL AND FOR SANCTIONS  
AND AFFIDAVIT RE:  
DISCOVERY

TO: Clerk of the Court

AND TO: Floyd E. Ivey, Attorney for Third-Party Plaintiff

CV 04 5125 FVS  
Gordon v Impulse Ex A memorandum  
Supporting motion  
to strike

1 This amended motion to compel was prompted by Mr. Floyd Ivey's  
2 veiled threat to seek sanctions against me for improperly pleading this  
3 motion and the motion to expedite. I do not appreciate the strong arm  
4 tactics of Impulse's legal team.

5 Mr. Ivey appears to have a pattern of ethically-challenged decision-  
6 making in terms of his clients and former clients. Mr. Ivey has  
7 represented my husband, James S. Gordon, Jr., the Plaintiff. My  
8 husband has discussed and corresponded at length with Mr. Ivey  
9 regarding suing spammers, including the Commonwealth Marketing  
10 and Impulse Marketing cabal. Mr. Ivey took that knowledge and used it  
11 for the benefit of his more financially fit client, Impulse. Within the last  
12 5 years, Mr. Ivey has had another client sue and ultimately win a case  
13 wherein Mr. Ivey should have disqualified himself. Exhibit 1

14  
15 It is imperative that Mr. Ivey disqualify himself from any case involving  
16 my husband. It is my position that appropriate sanctions should be  
17 levied against Mr. Ivey. By the way, Glantz and Moynihan saw fit to  
18 defend the repeat offender, Mr. Ivey.

19  
20 Third Party Defendant moves the Court for Sanctions and to Compel  
21 Third Party Plaintiff's Responses to Third Party Defendant's  
22 Interrogatories and Request for Production of Documents. These  
23 documents were placed in US Mail on or about January 17, 2006. I  
24 contacted Mr. Ivey to ensure the 30 day deadline was going to be met,  
25 he instead sought a two-week extension. With that additional time,  
Impulse still failed to meet its burden under FRCP 37 (a)(2) (3)(4).

1 At the status conference in the Fall of 2005, Impulse asked this Court  
2 for 3+ additional months for discovery. It has yet to propound the first  
3 question or request the first document from me. Due to this  
4 disingenuous request of the Court by Impulse close to four months of  
5 time has been squandered by Impulse.

6 Third Party Defendant's Motion to Compel is pursuant to FRCP 37(a)(2)  
7 (3)(4). Impulse has failed to make the required Rule 26 disclosures to  
8 the undersigned. Further, Impulse has provided evasive, incomplete  
9 disclosure, answer, or response to discovery propounded by the  
10 undersigned.

### 11 Interrogatories

12 Examples of the non-responsive answers to interrogatories by Impulse  
13 are the following:

#### 14 INTERROGATORY NO. 1:

15 Please provide the full contact information (and URL or web address in the form of  
16 http://www.) for the owner of each opt-in web page that you allege that third party  
17 defendant opted in at.

#### 18 RESPONSE:

19  
20 Impulse asserts the Ambiguity, Irrelevancy and Overbreadth Objections. The  
21 information sought will not lead to the discovery of admissible evidence. Bushman  
22 v. New Holland, 83 Wn. 2d 429, 433-34 (1974); Felix A. Thillet, Inc. v. Kelly-  
23 Springfield Tire Co., 41 F.R.D. 55 (D.P.R. 1966). Further, Bonnie Gordon does not  
24 have standing to request information on behalf of all third party defendants.  
25 Notwithstanding the foregoing objections, Impulse refers Bonnie Gordon to the  
attachment appended hereto as "Updated Gordon Opt-In Information."

1 In previous filings with this Court, Impulse has alleged my involvement  
2 in a scheme to defraud it. Two of the web sites that were mentioned  
3 were emailprize.com and home4freestuff.com, as I recall. Impulse  
4 posturing about needing information to defend itself is also true of my  
5 need to defend myself against specious – libelous accusations.

6 INTERROGATORY NO. 2:

7 Detail all personally identifying information which is collected by Impulse and/or  
8 its marketing partners

9  
10 RESPONSE:

11 Impulse asserts the Ambiguity, Irrelevancy and Overbreadth Objections. The  
12 information sought will not lead to the discovery of admissible evidence. Bushman  
13 v. New Holland, 83 Wn. 2d 429, 433-34 (1974); Felix A. Thillet, Inc. v. Kelly-  
14 Springfield Tire Co., 41 F.R.D. 55 (D.P.R. 1966). Notwithstanding the foregoing  
15 objections, Impulse refers Bonnie Gordon to attachment appended  
16 hereto as “Updated Gordon Opt-in Information”. This “document”  
17 appears to be a quickly thrown together Excel spreadsheet with  
18 information scattered about on it – no source is cited for the data.

19 Impulse informed the Court that I allegedly placed false information  
20 into web pages, I am simply asking for evidence of this claim.  
21  
22  
23  
24  
25

1 INTERROGATORY NO. 3:

2 List all IP addresses and domains wherein marketing emails (spam) was sent from  
3 since August 1, 2003.

4  
5 RESPONSE:

6 Impulse asserts the Ambiguity, Irrelevancy and Overbreadth Objections. The  
7 information sought will not lead to the discovery of admissible evidence. Bushman  
8 v. New Holland, 83 Wn. 2d 429, 433-34 (1974); Felix A. Thillet, Inc. v. Kelly-  
9 Springfield Tire Co., 41 F.R.D. 55 (D.P.R. 1966). Notwithstanding the foregoing  
10 objections, Impulse refers Bonnie Gordon to the attachment appended hereto as  
11 "Updated Gordon Opt-In Information."

12 In order to defend myself against false claims regarding emails that  
13 were sent to an address bearing my name, I must have this information.

14 INTERROGATORY NO. 18:

15 Provide full captioned information regarding all lawsuits that you have been a party  
16 to since 8/1/03.

17 RESPONSE:

18 Impulse asserts the Ambiguity, Irrelevancy and Overbreadth Objections. The  
19 information sought will not lead to the discovery of admissible evidence. Bushman  
20 v. New Holland, 83 Wn. 2d 429, 433-34 (1974); Felix A. Thillet, Inc. v. Kelly-  
21 Springfield Tire Co., 41 F.R.D. 55 (D.P.R. 1966).

22 This is discoverable information, which can aid my self-defense.

23 The Request for Production (RFP) by Impulse is exemplified by the  
24 following: Responding to Request 1-6, Impulse states, "This Third Party  
25 Defendant Bonnie Gordon has no standing to propound discovery on

1 behalf of Plaintiff or other Third Party Defendant's (sic).

2 Notwithstanding this Objection, as to Third Party Plaintiff Bonnie  
3 Gordon, continues its location of written documents and will  
4 supplement this production" In RFP 7-8, Impulse states, in part, "A  
5 response to this request for production will not lead to discovery of  
6 admissible evidence". No. 9 is simply called "irrelevant".

7  
8 Impulse wants to get information, but refuses to give information. I  
9 trust that the Court will assist me in obtaining full responses and  
10 answers to the discovery propounded to Impulse.

11  
12 Third party Defendant asks the Court to award Sanctions per FRCP  
13 37(a)(4) in an amount equal to or greater than the Sanctions demanded  
14 by Impulse of Plaintiff. Or, in the alternative, simply require/order  
15 compliance with the rules.

16  
17 I declare under penalty of perjury under the laws of the United States  
18 that the foregoing is true and correct.

19  
20 Bonnie F. Gordon, Pro Se

21 9804 Buckingham Drive

22 Pasco, WA 99301

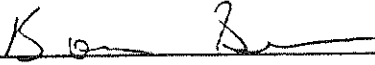
23 509-210-1069

24 EXECUTED this 9<sup>th</sup> day of March, 2006.

25 Bon Se

Certificate of Service

I, hereby, certify that on March 9, 2006, I filed this motion with this Court. I have served Bob Siegel, Peter J. Glantz, Sean A. Moynihan, Floyd E. Ivey, Bonnie Gordon, James Gordon III, Jonathan Gordon, Emily Abbey, and Robert Pritchett by other means.





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DEPUTY  
RICHLAND, WASHINGTON

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN  
DISTRICT OF WASHINGTON AT RICHLAND

James S. Gordon, Jr., Plaintiff,

vs.

Impulse Marketing Group, Inc.,

Defendant

Impulse Marketing Group, Inc.,

Third-Party Plaintiff,

v.

Jamila E. Gordon, Third-Party

Defendant

Case No.: CV-04-5125-FVS

THIRD-PARTY DEFENDANT,  
JAMILA E. GORDON'S MOTION  
TO COMPEL AND FOR  
SANCTIONS AND AFFIDAVIT  
RE: DISCOVERY

TO: Clerk of the Court

AND TO: Floyd E. Ivey, Attorney for Third-Party Plaintiff

Q17

Exhibit B  
Memorandum  
to Justice  
Dedmon



1 Third Party Defendant moves the Court for Sanctions and to Compel  
2 Third Party Plaintiff's Responses to Third Party Defendant's  
3 Interrogatories and Request for Production of Documents. These  
4 documents were placed in US Mail on or about January 17, 2006. I  
5 contacted Mr. Ivey to ensure the 30 day deadline was going to be met,  
6 he instead sought a two-week extension. With that additional time,  
7 Impulse still failed to meet its discovery obligations per FRCP 37 (a) (2)  
8 (3) (4).

9 At the status conference in the Fall of 2005, Impulse asked this Court  
10 for 3+ additional months for discovery. It has yet to propound the first  
11 question or request the first document from me. Due to this  
12 disingenuous request of the Court by Impulse close to four months of  
13 time has been squandered by Impulse.

14  
15 Third Party Defendant's Motion to Compel is pursuant to FRCP 37(a)(2)  
16 (3)(4). Impulse has failed to make the required Rule 26 disclosures to  
17 the undersigned. Further, Impulse has provided evasive, incomplete  
18 disclosure, answer, or response to discovery propounded by the  
19 undersigned.

20  
21 Again, Impulse via its attorney is threatening me (and us) with  
22 sanctions for exercising our rights. Mr. Ivey stated after the  
23 teleconference with this Court that he would seek sanctions if we did  
24 not withdraw our motion to compel as it was not properly plead. I trust  
25 that such intimidation is not rewarded by the Court. Mr. Ivey is the  
same attorney that represented my dad in one or more legal matters

1 and turned around and represented Impulse and other parties even  
2 though my dad had discussed and corresponded about suing spammers  
3 – an apparent breach of ethics Mr. Ivey - I have copies of the 15 or more  
4 emails between Mr. Ivey and my father.

5  
6 My father, has a power of attorney that I have executed in Benton  
7 County, OR. Mr. Ivey has this document. I have asked my father, James  
8 S. Gordon, Jr. to represent my interests in this matter. Thus, Mr. Ivey  
9 shall interact directly with my father or develop another workaround as  
10 I do not wish to be contacted by Impulse or its attorneys in any manner.

### 11 Interrogatories

12 Examples of the non-responsive answers to interrogatories by Impulse  
13 are the following:

14 **Interrogatory #11:** Who actually sets up and sends email on behalf of  
15 Impulse?

16  
17 **Response:** Impulse asserts the Ambiguity, Irrelevancy, and  
18 Overbreadth Objections. The inquiry is not relevant to the issues  
19 alleged in the Third Party Complaint. The information sought will not  
20 lead to the discovery of admissible evidence. Bushman v. New Holland,  
21 83 Wn. 2d 429, 433-34 (1974); Felix A. Thillet, Inc. v. Kelly-Springfield  
22 Tire Co., 41 F.R.D. 55 (D.P.R. 1966).

23  
24 As Impulse has alleged that I was part of a scheme to defraud it and  
25 that I allegedly opted into its marketing partners' web sites, I have a

19

1 right to know if the offending emails were sent by the marketing  
2 partners or someone in its direct employ and control.

3  
4 **Interrogatory #16:** List all IP addresses that you have used to send  
5 email from for the past 5 years – list all domains that you have used –  
6 who owned them during this period of time?

7  
8 **Response:**

9 Impulse asserts the Ambiguity, Irrelevancy, and Overbreadth  
10 Objections. The interrogatory is irrelevant to the Third party Causes of  
11 action. The information sought will not lead to the discovery of  
12 admissible evidence. Further, this Interrogatory No. 16 comprises a  
13 mutipart interrogatory and thus comprises more that one  
14 interrogatories for the purpose of complying with the rules limitation of  
15 25 interrogatories. Bushman v. New Holland, 83 Wn. 2d 429, 433-34  
16 (1974) Felix A. Thillet, Inc. v. Kelly-Springfield Tire Co., 41 F.R.D. 55  
17 (D.P.R. 1966).

18 Again, the analysis of the emails which bear my name are at issue, I  
19 have a right to know the genesis of same.

20  
21 **Interrogatory #17:** Please provide evidence of all opt-ins for the  
22 domain, gordonworks.com, including personally identifiable information  
23 from each opt-in.  
24

25 **Response:**

20

1 Impulse asserts the ambiguity, Irrelevancy, and Overbreadth Objections.  
2 The interrogatory is irrelevant to the Third Party Causes of Action  
3 against this Third party Defendant. The information sought will not  
4 lead to the discovery of admissible evidence. Bushman v. New Holland,  
5 83 Wn. 2d 429, 433-34 (1974) Felix A. Thillet, Inc. v. Kelly-Springfield  
6 Tire Co., 41 F.R.D. 55 (D.P.R. 1966). Notwithstanding the foregoing,  
7 Jamila Gordon is referred to the opt-in spreadsheet produced to her in  
8 response th her request for documents.

9  
10 Impulse claims that I opted into web sites or participated in a scheme, I  
11 am entitled to know of any and all instances that I allegedly opted in  
12 per its records or the records of its agents.

### 13 Requests for Production

14 In the following actual list of requests my me for documents, I will use  
15 "key words" [in brackets] from the responses by Impulse – including  
16 "irrelevant", "lack standing", or other as a synopsis of Impulse's  
17 objection.

- 18 1. Produce all correspondence – from and to IMG since 8/1/2003 -  
19 internal and external regarding the regulation, restriction, and  
20 quality control of email. **[Lacks Standing]**
- 21 2. Provide copies of all marketing contracts executed by Impulse  
22 and all marketing partners since 8/1/2003. **[Lacks Standing]**
- 23 3. Provide documentation pertaining to the discipline of any and  
24 all employees who have been disciplined regarding email abuse.  
25 **[Lacks Standing]**
4. Provide documentation pertaining to the discipline of any and  
all marketing partners who have been disciplined regarding  
email abuse. **[Lacks Standing]**

21

- 1 5. Provide documentation or correspondence regarding due  
2 diligence conducted on each prospective email marketer that  
3 you have contracted with. **[Irrelevant]**
- 4 6. Produce lists of all users (individuals) of the following domains:  
5 (List Omitted from this display) **[ Irrelevant]**
- 6 7. Produce an organization chart for IMG and any subsidiary  
7 and/or parent organizations. **[Lacks Standing]**
- 8 8. Produce documentary evidence of all quality control measures  
9 pertaining to email marketing. **[Irrelevant]**
- 10 9. Produce all documents on which IMG relied on that led to  
11 excessive costs and expenses as a result of plaintiff's and third  
12 party defendants' alleged actions. **[Impulse did not  
13 acknowledge this request for production]**
- 14 10. Produce a chronological list of all marketing partners and full  
15 contact information for each including the IP addresses and  
16 domains used by them. **[Impulse did not acknowledge this  
17 request for production]**
- 18 11. Provide documents which represent false representations by  
19 plaintiff and/or third party defendants. **[Impulse did not  
20 acknowledge this request for production]**
- 21 12. Produce contracts and other documents which detail a business  
22 relationship with the owners of the opt-in web sites wherein it  
23 is alleged that third party defendants opted in to receive email  
24 from defendant or its agents or marketing partners. **[Impulse  
25 did not acknowledge this request for production]**
13. Produce documentary evidence of all quality control measures  
pertaining to email marketing implemented by Impulse and/or  
its marketing partners. **[Impulse did not acknowledge this  
request for production]**

21 Third party Defendant asks the Court to award Sanctions per FRCP  
22 37(a)(4) in an amount equal to or greater than the Sanctions demanded  
23 by Impulse of Plaintiff. Or, in the alternative, simply require/order  
24 compliance with the rules.  
25

22

1 I declare under penalty of perjury under the laws of the United States  
2 that the foregoing is true and correct.

3  
4 Jamila E. Gordon, Pro Se

5 9804 Buckingham Drive

6 Pasco, WA 99301


7 509-210-1069

8  
9 EXECUTED this 9<sup>th</sup> day of March, 2006.

10  P o A

11  
12 Certificate of Service

13 I, hereby, certify that on March 9, 2006, I filed this motion with this  
14 Court. I have served Bob Siegel, Peter J. Glantz, Sean A. Moynihan,  
15 Floyd E. Ivey, Bonnie Gordon, James Gordon III, Jonathan Gordon,  
16 Emily Abbey, and Robert Pritchett by other means.

17  P o A



MAR 20 2006

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MAR 17 2006

JAMES R. LARSEN, CLERK  
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RICHLAND, WASHINGTONIN THE UNITED STATES DISTRICT COURT FOR THE EASTERN  
DISTRICT OF WASHINGTON AT RICHLAND

James S. Gordon, Jr., Plaintiff,

vs.

Impulse Marketing Group, Inc.,  
DefendantImpulse Marketing Group, Inc.,  
Third-Party Plaintiff,

v.

Bonnie F. Gordon, Third-Party  
Defendant

Case No.: CV-04-5125-FVS

DECLARATION AND  
RESPONSE TO IMPULSE AND  
IVEY INITIAL MEMORANDUM  
RESPONSE RE: THIRD PARTY  
DEFENDANT'S MOTION TO  
COMPEL AND MOTION TO  
DISQUALIFY

TO: Clerk of the Court

AND TO: Floyd E. Ivey, Attorney for Third-Party Plaintiff

AND TO: Peter J. Glantz and Sean A. Moynihan

24



1 Bonnie F. Gordon declares as follows:

- 2 1) I, Bonnie F. Gordon, am a named third party defendant in the  
3 above captioned lawsuit. I am over the age of 18 and am  
4 otherwise competent to testify.
- 5 2) Commonwealth Marketing Group (CMG) – whose contract has  
6 already been introduced into evidence by Impulse sent a “cease  
7 and desist” letter to Impulse on February 9, 2004 to stop it from  
8 sending emails to “gordonworks.com” Impulse is withholding  
9 documents like this one from me (us), documents which will  
10 substantiate the contentions made by me (us). **Exhibit 1**
- 11 3) Prior to this letter (Ex 1) by CMG, Impulse assured CMG that  
12 it was Can-Spam compliant. **Exhibit 2** However, Impulse  
13 continued to send spam or unwanted email to gordonworks.com  
14 through December 2005 – a per se violation of Can-Spam,  
15 despite its “assurances” of using suppression/scrub lists and the  
16 like. And it is sending spam to my new domain - well into  
17 March 2006.
- 18 4) Impulse’s reliance on accusations of a scheme and the concepts  
19 of indemnification and contribution “fail” in light of the fact  
20 that internal documents from Impulse and external documents  
21 from CMG, indicate that Impulse’s Ken Adamson, Jeffrey  
22 Goldstein, and John Huston – at a minimum, knew that no  
23 email was to be sent to the email address which bears my name  
24 at “gordonworks.com”. Despite this knowledge, each man,  
25 individually and as a collective, failed to reign in the torrent of
- 25

1 email being sent to "gordonworks.com. My causes of action  
2 versus Impulse will bring out more of its scheme or conspiracy  
3 to defraud the general public along with its promotion or  
4 support of pornography, counterfeit drugs and the like.

5 5) Impulse's reliance on the assertions of fraud and deceit,  
6 tortious interference, malicious prosecution and breach of  
7 contract (even if there was a contract [which I deny] it was  
8 rescinded via unsubscribe requests in October 2003 starting  
9 with Exhibit 3) fail because of the evidence of accurate  
10 subscriber profiles and opt-out requests as early as October 1,  
11 2003. Accurate subscriber profiles and opt-out requests along  
12 with the communication between CMG and Impulse indicate a  
13 good faith effort on the part of the undersigned to extricate  
14 myself from the failed attempt to obtain a prize, which  
15 ultimately proved to be part of a fraudulent free prize scheme  
16 to steal the identity of the undersigned and anyone else who  
17 responded to Impulse's offers. **Exhibit 3**

18 6) The "prayer" for an injunction by Impulse appears to be  
19 fraudulent as the documents above indicate that Impulse has  
20 refused to honor unsubscribe requests by "gordonworks.com"  
21 email addressee(s). Further, it has used its refusal to fabricate  
22 its story of its own victimization. In addition to ignoring opt-out  
23 requests, Impulse ignore edicts from CMG and internal  
24 suppression guidelines – making it answerable to no one. It is  
25 Impulse and its marketing partners' behavior that led to any  
and all damages incurred by Plaintiff and the undersigned.

26

1 Damages proffered by Impulse, allegedly as a result of a  
2 scheme, are illusory or self-inflicted.

3 7) Impulse's counterclaims are based on a lie (or series of lies), for  
4 example, a) I participated in a scheme to defraud it b) I opted  
5 into one or more of its websites c) I opted out of one or more of  
6 its websites d) I opted in and opted out, repeatedly e) Impulse  
7 believed that 3<sup>rd</sup> party defendants' subscriber profiles were  
8 inaccurate and untruthful f) I solicited emails in order to file  
9 multiple lawsuits (strictly speaking I have filed no lawsuits  
10 against anyone – my counterclaims and causes of action against  
11 Impulse were prompted by the pre-existing specious lawsuit by  
12 Impulse – I have sued no one else) g) Impulse has sustained  
13 financial loss and continues to accrue losses due to action(s) by  
14 Plaintiff and 3<sup>rd</sup> party defendants. Had Impulse done as it was  
15 instructed to do by its principal, CMG, this lawsuit may have  
16 been averted altogether. Impulse's Adamson letter of 10/21/03  
17 acknowledges Impulse's placement of "gordonworks.com" "in a  
18 file of blocked and/or suppressed recipients – ALL email after  
19 this time VIOLATED Impulse's and CMG's corporate policies  
20 as well as state and federal civil and criminal laws as outlined  
21 in my causes of action versus Impulse.

22 8) Mr. Ivey et al have criticized my (our) interrogatories, it  
23 appears, as something I (we) are parroting for/from Plaintiff.  
24 He fails to mention that I (we) now have legitimate claims of  
25 my (our) own. These new claims are for statutory damages  
under RCW 19.190 et seq as Impulse has insinuated itself into

1 web sites which do not disclose a link to Impulse – claiming  
2 that it is a marketing partner simply because it purchased an  
3 email list from another spammer. Impulse has failed to disclose  
4 via interrogatories and requests for production its list of so-  
5 called marketers ostensibly to avoid being painted with the  
6 same brush as these “fly-by-night” criminal spam gangs.

7 Discovery now appears to be a one-way street whereby Impulse  
8 hounds Plaintiff for discovery while maintaining a closed fist on  
9 its requirement for disclosure. For pro se defendants, the  
10 distinction between our collective claims, if there is one, is not  
11 discernible to us.

- 12 9) As a result of 30 years of marriage, my husband and I discuss  
13 and collaborate on most things including litigation and  
14 strategies for same. This collaboration has revealed the  
15 following, we both understood Mr. Ivey was “his” attorney and  
16 that all that was discussed between the two of them was  
17 privileged. I was shocked to hear that Mr. Ivey had switched  
18 sides. The documents in my possession appear to reveal a  
19 betrayal of my husband and a skirting of the truth by Mr. Ivey.  
20 **Exhibit 4** – email dated 9/22/03; **Exhibit 5** – email dated  
21 9/25/03; **Exhibit 6** – dated 9/30/03; **Exhibit 7** – dated 9/30/03  
22 to Jamila Gordon; **Exhibit 8** – dated 12/30/03; **Exhibit 9** –  
23 dated 4/4/05.
- 24 10) I find it peculiar that Mr. Ivey would retain my husband’s  
25 email from 2002, but not the 2003 emails that would indicate a  
conflict.

11) **Exhibit 5** lists the case of Gordon v. Commonwealth Marketing Group, Inc. It was a hyperlink to a web site created by my husband which contained detailed information about the lawsuit and emails and the analysis of the email – the web site has been taken down. On the surface, it appears that Mr. Ivey has direct intimate knowledge of both sides in the instant conflict. And Impulse's argument that "the relevant test for disqualification is whether the former representation is 'substantially related' to the current representation" – Gas-A-Thon citation. The substantially related argument is buttressed by Impulse's assertion/claim in its Motion to Dismiss based on "res judicata" (circa January 2005) that the corpus of email was **identical**.

12) Impulse knows that it is suing pro se defendants. Pro Se defendants by definition are typically not attorneys. As a result, pro se defendants will make mistakes. Impulse has seized every opportunity to threaten and intimidate 3<sup>rd</sup> party defendants in terms of filings made and the errors which ensue. The primary threat has been for sanctions for making mistakes. If allowed, these sanctions would render 3<sup>rd</sup> party defendants "paralyzed" in terms of mounting their legal self-defense. It is highly likely that 3<sup>rd</sup> parties will make more mistakes in their self-defense. As a matter of equity, this Court, I (we) trust will adjudge each filing made by a 3<sup>rd</sup> party defendant on a good faith proffer of facts – not my (our) legal education or lack thereof.

13) I do not want to have to interact with Mr. Ivey et al because of

1 his tendency to intimidate/threaten and I do not believe he is a  
2 man of his word. That is the reason for my husband forming a  
3 "buffer" for our family and my family's consent for same. It  
4 appears that Impulse could correspond via email or suggest  
5 another way to overcome the impasse regarding the needed  
6 communications in this case. We have been pulled into this  
7 scam/scheme of Impulse, but we will defend ourselves to the  
8 best of our collective abilities.

9 I declare under penalty of perjury under the laws of the United States  
10 that the foregoing is true and correct.  
11

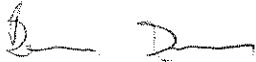
12 Bonnie F. Gordon

13 9804 Buckingham Drive

14 Pasco, WA 99301

15 509-210-1069  
16  
17

18 EXECUTED this 17th day of March, 2006  
19

  
\_\_\_\_\_

20 Certificate of Service

21 I, hereby, certify that on March 17, 2006, I filed this affidavit with this  
22 Court. I have served Bob Siegel, Peter J. Glantz, Sean A. Moynihan,  
23 Floyd E. Ivey, Jamila Gordon, James Gordon III, Jonathan Gordon,  
24 Emily Abbey, and Robert Pritchett by other means.  
25

  
\_\_\_\_\_





One Millennium Drive  
Uniontown, PA 15401  
Phone: (724) 437-3707

February 9, 2004

Jeff Goldstein  
Impulse Marketing Group, Inc.  
Five Concourse Parkway, Suite 950  
Atlanta, GA 30328

Facsimile: (678) 805-2101

Re: James S. Gordon, Jr. v. Commonwealth Marketing Group, Inc.

Dear Jeff:

Commonwealth Marketing Group, Inc. (CMG) hereby gives notice to Impulse Marketing Group, Inc. (IMG) to immediately cause IMG affiliated marketers, offerclicks and freebiegazette, to cease representing, in any and all manner whatsoever, IMG on behalf of CMG, unless and until IMG provides CMG with assurance that it has caused all of its affiliated marketers, including the two mentioned above, to cease and desist from sending messages, to the gordonworks.com e-mail domain.

CMG finds it necessary to take this drastic action as, despite repeated telephone conversations with IMG officers and staff of the need to act immediately on this extremely urgent matter, we learned today that the gordonworks.com domain continues to receive messages from IMG affiliated marketers. Specifically, on January 7, I wrote to you, attached a copy of an Order of Court of Benton County, Washington, against me, personally, CMG and IMG, enjoining the sending of e-mail messages to James Gordon. On January 9, John Fonzo, CMG Vice President and General Counsel, wrote to IMG's Phil Huston, requesting assurances concerning IMG CAN SPAM Act and state anti-Spam law compliance. (Gordon's lawsuits against CMG was filed pursuant to the Washington anti-Spam law). On February 2, Mr. Fonzo again wrote to Phil Huston, informing IMG in writing of our previous oral notification of the Gordon vs. CMG litigation, and raising indemnification issues under the CMG-IMG Website Development and Marketing Services Agreement.

It is my understanding that IMG's lawyers have responded in writing to the January 9 letter concerning SPAM law compliance, providing assurances of IMG compliance. Further, on multiple occasions, CMG has forwarded to IMG several e-mail messages as provided by James Gordon to me, for research and evaluation as to, among other things, origin of the messages, any evidence of Gordon opt-ins, as well as evidence of cessation of messages, to the extent they originated from an IMG affiliated marketer. My staff

CMG 000052



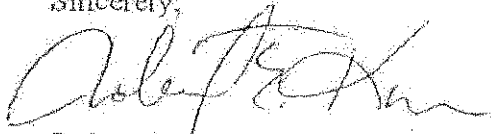
advises that they have had continuous dialogue with IMG technical staff as to these messages, together with certain assurances that proper safeguards were put in place to make certain that additional messages are not sent to Mr. Gordon.

What is equally troubling to me is that IMG was first notified of Gordon's alleged receipt of SPAM in September of 2003, immediately upon CMG's receipt of notice from Gordon of the allegations. Certainly, IMG has had sufficient time to address this serious situation. Thus, you can imagine my confusion, anger and embarrassment when I received from James Gordon on February 7, yet two additional e-mail messages that appeared to have originated from IMG affiliated marketers.

Jeff, it is absolutely imperative that this situation be addressed immediately. Given the long and productive business relationship that CMG and IMG has enjoyed, you must see this demand for IMG affiliated marketers who send messages to gordonworks.com, including the two mentioned above, to cease and desist representing IMG on CMG products as a final effort to get IMG's attention to do what is legally required and commercially responsible.

Please call me immediately upon receipt. At that time, we can direct to the person at IMG who will give this their undivided and immediate attention, the most recent e-mail messages received from James Gordon.

Sincerely,



Robert E. Kane  
President & CEO

CMG 000053

ATTORNEYS AT LAW  
485 MADISON AVENUE  
NEW YORK, NEW YORK 10022-5803

TEL (212) 635-6020

FAX (212) 753-8101

e-mail: Kzrd@kzrd.com

FRED C. KLEIN  
ANDREW E. ZELMAN  
JOAN EBERT ROTHERMEL  
JOEL R. DIGHTER  
JANE B. JACOBS  
NANCY B. SCHLESS  
DAVID O. KLEIN  
LAURENCE J. LEBOWITZ  
SEAN A. MOYNIHAN

STEPHEN B. HANSBURG  
OF COUNSEL

JOHN T. UM  
JOSHUA D. ROSE  
DEENA B. BURGESS

February 3, 2004

VIA FIRST CLASS MAIL

John P. Fonzo, Esq.  
Vice President & General Counsel  
Commonwealth Marketing Group  
One Millennium Drive  
Uniontown, PA 15401

Re: CAN-SPAM compliance

Dear Mr. Fonzo:

Please be advised that this firm represents Impulse Marketing Group, Inc. ("Impulse"). We write in response to your January 9, 2004 correspondence addressed to Mr. Phil Huston, in which you request that Impulse detail the steps that it has taken to comply with the provisions of the CAN-SPAM Act of 2003 ("CAN-SPAM" or the "Act"), specifically as they relate to the services that Impulse provides to Commonwealth Marketing Group ("Commonwealth") under contract dated December 10, 2001 (the "Agreement"). Impulse has assured us that during the life of its relationship with Commonwealth, it will at all times provide services to Commonwealth in strict conformance with the requirements of CAN-SPAM and any subsequent amendments. In furtherance of this commitment, Impulse is amenable to crafting a mutually acceptable rider to the existing Agreement that will address the parties' respective CAN-SPAM obligations, while providing reciprocal indemnification provisions that will be triggered should either party at any time fail to comply with the Act.

As of January 1, 2004, Impulse has implemented the following internal procedures so that its business is conducted in accordance with CAN-SPAM regulations: In particular, and without limitation, Impulse ensures that each and every commercial e-mail that it sends, or has sent through a third party, contains: accurate header information; correct domain name and/or IP address; "subject" and "from" lines that are not fraudulent, deceptive or misleading; a functioning return/reply e-mail address for unsubscribe purposes and an unsubscribe hyperlink

33

John P. Fonzo, Esq.

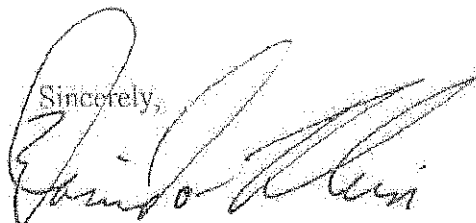
February 3, 2004

Page 2

that is functional for thirty (30) days after the applicable e-mail transmission date; language identifying such commercial e-mail as an advertisement or solicitation; and valid, physical mailing addresses (not P.O. boxes) for both Impulse and its advertiser-clients, such as Commonwealth. As required by the Act, Impulse processes all unsubscribe requests within ten (10) days of receiving such requests, if not sooner. Each unsubscribed e-mail address is then transferred to the Impulse suppression list. This list is updated on a daily basis, divided up into separate advertiser-specific suppression lists and made available to the applicable advertiser-clients for their own internal scrubbing and suppression purposes.

Should you have any further questions on the CAN-SPAM compliance measures taken by Impulse, please contact me at your convenience. We will begin drafting the CAN-SPAM rider next week and will have same for your review promptly thereafter. I look forward to working with you.

Sincerely,



David O. Klein

cc: Phil Huston

Exhibit 3

X-Persona: <ValueWeb>

Received: from cust\_req\_fwding (james@gordonworks.com --> jim@gordonworks.com) by ams.ftl.affinity.com id <216611-20680>; Wed, 1 Oct 2003 10:08:34 -0400

Received: from relay02.mindsharedesign.com ([216.39.113.10]) by ams.ftl.affinity.com with ESMTTP id <216875-20663>; Wed, 1 Oct 2003 10:07:39 -0400

Received: from i.pm0.net (i.pm0.net [216.39.113.141])

by relay02.mindsharedesign.com (Postfix) with ESMTTP id A6E31643B

for <james@gordonworks.com>; Wed, 1 Oct 2003 07:05:16 -0700 (PDT)

Received: (from pmguser@localhost)

by i.pm0.net (8.12.8/8.12.2/Submit) id h91E7bxU007989;

Wed, 1 Oct 2003 07:07:37 -0700 (PDT)

Date: Wed, 1 Oct 2003 07:07:37 -0700 (PDT)

Message-Id: <200310011407.h91E7bxU007989@i.pm0.net>

From: "EmailPrize.com" <pmgsender@returns.mb00.net>

To: <james@gordonworks.com>

X-PMG-Userid: emailprize

X-PMG-Msgid: unsubscribe

X-PMG-Recipient: james@gordonworks.com

Subject: Unsubscribed Successful!

MIME-Version: 1.0

Content-Type: text/plain; charset="iso-8859-1"

You have been unsubscribed to the EmailPrize Newsletter. We are sorry to see you leave.

EmailPrize.com

35

From: "floyd ively" <feivey@3-cities.com>  
To: "Jim Gordon" <res08nqc@verizon.net>  
Subject: Re: Help With District Courts Complaints  
Date: Mon, 22 Sep 2003 10:29:23 -0700  
X-Mailer: Microsoft Outlook Express 6.00.2800.1158

Jim,

Thanks for the interesting note. I certainly have an interest but will first point you to direct contact with the Attorney General's office. They may be able to indicate the extent of their efforts and may have an interest in your work.

Moving a positive result in District Court to a meaningful prospect of gaining dollars will likely be difficult. The Attorney General may have a clear perspective of the possibility of having success via litigation.

Please let me know the nature of any contact you might have with the AG.

Floyd E. Ivey

----- Original Message -----

From: "Jim Gordon" <res08nqc@verizon.net>  
To: <feivey@3-cities.com>  
Sent: Monday, September 22, 2003 8:15 AM  
Subject: Help With District Courts Complaints

> Floyd:  
>  
> I would like you to consider the following information as I will need help  
> completing the work that I have outlined, below...  
>  
> I have taken the following affirmative steps to reduce the 600+ emails  
that  
> I have been receiving every day since 1998:  
>  
> 1. I purchased forensic software to allow me to trace the origin of  
emails.  
> 2. Mailed demand letters to individuals and entities that have spammed me.  
> Each letter contained the following info:  
> a. A two page copy of RCW 19.190 - WA anti-spam statute  
> b. Copies of the unlawful headers from the email that the  
spammers  
> sent to me.  
> c. Demand for damages of \$500 per violation - the threshold for  
> sending a letter was 10 violations or more  
> 3. Mailed a total of 30 demand letters to the most egregious violators of  
> this law.  
>  
> Currently, I have drafted a complaint - the draft was based on a template  
> from a successful defense of RCW 19.190 in Western WA. I am seeking an  
> attorney to "perfect" my complaint so that I may file it in District  
Court.  
> In the alternative, I may want to hire an attorney to represent me in  
court.  
>  
> An interesting side note is since the demand letters were delivered to  
> these spammers, a few have continued to send their spam "flaunting" our  
> law. I believe that there is a second cause of action (perhaps harassment)

From: "floyd ivey" <feivey@3-cities.com>  
To: "Jim Gordon" <res08nqc@verizon.net>  
Subject: Re: Article from Wired World  
Date: Thu, 25 Sep 2003 09:38:24 -0700  
X-Mailer: Microsoft Outlook Express 6.00.2800.1158

Jim,

The problem with present resistance to spam is the cost. That is, it will cost \$225/hour for me to explore with no clear ability to find a solution. Further, should you actually locate a spammer there would be doubt regarding the ability to collect on any judgment.

In the mean time someone has commenced such a lawsuit. I haven't heard re: the status for months. And the Attorney Generals of many states are likely looking at the issue.

Thus others are doing the work at no expense to you. There will be a real budget needed for you to commence the effort. Please advise if you want to examine the prospect of going forward.

Floyd

----- Original Message -----

From: "Jim Gordon" <res08nqc@verizon.net>  
To: <feivey@3-cities.com>  
Sent: Thursday, September 25, 2003 9:09 AM  
Subject: Article from Wired World

> Floyd:  
>  
> My domain name - gordonworks.com is under siege. Whether we consider my  
> domain name intellectual PROPERTY or personal PROPERTY, this property is  
> being encroached upon - to the tune of 4MB+ every day. This encroachment  
> displaces my computer's memory with unsolicited - even unlawful commercial  
> email.  
>  
> I have kept records of this spam since 8/6/03. In that time (51 days), I  
> have received 122MB of spam. In the past 24 hours, I have received 4.6MB  
of  
> spam. I am feeling a since of urgency...  
>  
> One might ask why I don't simply filter and delete these email. I have  
been  
> filtering and deleting email since 1998. During that time, my daily volume  
> of email approached 1500 messages per day. I found that filters can be  
> defeated/circumvented - so I spent time revising and updating my filters.  
> My collection of spam (over 20,000 messages) now serves one purpose - that  
> of being evidence against those who spam me and millions of others.  
>  
> My spam problem was an imposition on my business and it is an imposition  
on  
> my personal use of the Internet. Therefore, I have chosen to stop running  
> and hiding from spam. I believe that Washington's anti-spam statute was  
> designed to prevent much of the abuse that I am experiencing.  
>  
> The article below discusses the concept of "trespass" as it pertains to  
> spam...I experience this sense of being trespassed upon each time that I  
> check my email - 6+ times per day.

feivey@3-cities.com, 11:15 AM 9/30/2003 -0700, First spam Complaints

---

To: feivey@3-cities.com  
From: Jim Gordon <res08nqc@verizon.net>  
Subject: First spam Complaints  
Cc:  
Bcc:  
Attached: C:\Temp\Spam Complaint Form\_files\Complaints\pleadingdraftTheodorehansson.doc; C:\Temp\Spam Complaint Form\_files\Complaints\pleadingdraftAmericanHomeownersASSN.doc;

Floyd:

I have the email documentation, which shows the violations that I allege. I have also "drafted" two complaints. How would you like to proceed? And what costs can we identify at this point?

I believe that we will prevail in these matters. However, I would like to be as frugal as possible on this first lawsuit [I have been unemployed since 7/31/03]. There are 30+ complaints to go.

I'd like to have the first complaint [AHA] filed and sent to the Defendant with a final offer to settle out-of-court.

Regards,  
Jim Gordon

**1. American Homeowners Assn. [ 144 emails ] \$72,000 claim**

1100 Summer St.  
Stamford, CT 06905

<https://www.ahamembership.com/index.cfm>

This company sent me a written "rejection" of my "demand for damages" letter that I sent to them. However, they continue to send me ads that offer free products, which actually would cost me a tiny fee, that is to be charged to my credit card and I would also be obligated to receive their one month trial membership - not so free after all. Their email explicitly proclaims, "[Click now](#) and complete the form to get your Gift Now! This offer is with **no obligation** and the gift is yours to keep."

**2. Theodore Hansson [ 94 emails ] \$47,000 claim**

4137 248th Ct. SE  
Issaquah, WA 98029

<http://www.esioffers.com/campaigns/thansson/?link=2464>

<http://www.megawavez.com/hansson/index.html>

He sells books...states that people can use his money to buy discounted paper. Some of the subject lines for his email follow:

Subject: Wanna Use My Money?  
Subject: Use my money... all of it!  
Subject: You can use MY money  
Subject: Split the profits 50-50 using MY money

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Jamila & Tommy, 01:26 PM 9/30/2003 -0700, Update

---

To: "Jamila & Tommy" <jamila@charter.net>

From: Jim Gordon <res08nqc@verizon.net>

Subject: Update

Cc:

Bcc: bonnie.gordon@verizon.net

Attached: C:\Temp\Spam Complaint Form\_files\Complaints\pleadingdraftAmericanHomeownersASSN.doc; C:\Temp\Spam Complaint Form\_files\Complaints\pleadingdraftTheodorehansson.doc;

Jamila:

Please hold on to the attachments - they are templates for future litigation. The email accounts for the family have the following totals:

<u>Name</u>	<u>Total Emails (unresearched)</u>	<u>Unlawful spam (researched)</u>
Bonnie	1505	153
James	3409	343
Jamila	1132	94
Jay	1552	124
Jon	1138	95

The complaints that I drafted for my attorney, Floyd Ivey, are attached. Each unlawful spam could be worth \$500 - if we prevail in court

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Exhibit 9

Akers, Doug E, 08:47 AM 4/4/2005 -0700, RE: FW: Battelle Contract for Review

---

To: "Akers, Doug E" <doug.akers@pnl.gov>  
From: Jim <Kamau@charter.net>  
Subject: RE: FW: Battelle Contract for Review  
Cc:  
Bcc:  
Attached:

Actually it is Doug McKinley v Floyd Ivey

At 07:48 AM 4/4/2005 -0700, you wrote:

By chance are you working with Dave Broussard? Good Guy

Look forward to hear from one of them.

Take Care

Doug

-----Original Message-----

From: Jim [mailto:Kamau@charter.net]  
Sent: Saturday, April 02, 2005 8:30 AM  
To: Akers, Doug E  
Cc: Shoemaker, Steven V  
Subject: Re: FW: Battelle Contract for Review

Doug:

I have not had an opportunity to take this contract to an attorney yet - because the two attorneys that I typically use are facing one another - one for me and the other against (yes, it technical is a conflict of interest, but...). The attorney that is for me, does work for the Lab, which makes advising me a possible conflict of interest - so, I may go to a third attorney...

I appreciate you diligence on the preparation of this document and will get legal advice as soon as possible.

Best Regards,  
Jim

At 07:29 AM 3/7/2005 -0800, you wrote:

Jim,

Here it is. Hopefully it will make it through this time.

Doug

-----Original Message-----

From: Akers, Doug E  
Sent: Tuesday, February 22, 2005 12:07 PM  
To: 'jim@gordonworks.com'  
Cc: Shoemaker, Steven V; Strycker, Forest E Jr  
Subject: Battelle Contract for Review

Jim,

40

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

MAR 20 2006

JAMES R. LARSEN, CLERK  
DEPUTY  
RICHLAND, WASHINGTON

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN  
DISTRICT OF WASHINGTON AT RICHLAND

James S. Gordon, Jr., Plaintiff,

vs.

Impulse Marketing Group, Inc.,

Defendant

Impulse Marketing Group, Inc.,

Third-Party Plaintiff,

v.

Jamila E. Gordon, Third-Party

Defendant

TO: Clerk of the Court

AND TO: Floyd E. Ivey, Attorney for Third-Party Plaintiff

AND TO: Peter J. Glantz and Sean A. Moynihan

Case No.: CV-04-5125-FVS

DECLARATION AND  
RESPONSE TO IMPULSE AND  
IVEY INITIAL MEMORANDUM  
RESPONSE RE: THIRD PARTY  
DEFENDANT'S MOTION TO  
COMPEL AND MOTION TO  
DISQUALIFY

41

1 Jamila E. Gordon declares as follows:

- 2 1) I, Jamila E. Gordon, am a named third party defendant in the  
3 above captioned lawsuit. I am over the age of 18 and am  
4 otherwise competent to testify.
- 5 2) Impulse is arguing about the prospect of losing Mr. Ivey as  
6 counsel for Impulse and the alleged hardship that would result.  
7 However, this argument is not well reasoned because a)  
8 Impulse retains counsel headed up by Klein, Zelman,  
9 Rothermel, & Dichter b) it is Klein et al which hired Mr. Ivey  
10 as local counsel for them c) It appears to me that Klein et al  
11 receive copies of all documents filed and has primary  
12 responsibility for Impulse's legal defense – not Mr. Ivey d) in  
13 the arguments regarding cited cases, it appears that the  
14 counsel disqualified were primary counsel not back-up or  
15 secondary counsel (a sub-contractor), e.g. Mr. Ivey e) the harm  
16 represented by disqualifying Mr. Ivey is greatly exaggerated as  
17 Klein et al are Impulse's primary counsel - this motion to  
18 disqualify does not impede that continued representation or  
19 interfere with its basic relationship as Impulse's counsel of  
20 choice f) using Mr. Ivey's words, "the court will not allow a  
21 litigant to delay filing a motion to disqualify in order to use the  
22 motion later as a tool to deprive his opponent of **counsel of his**  
23 **choice** [emphasis added] after substantial preparation of a  
24 case has been completed". The operative words are "counsel of  
25 his choice" – I submit that Mr. Ivey is not counsel of choice by
- 42

- 1 Impulse, but rather counsel of choice for Impulse's true,  
2 primary counsel, Klein et al. g) the cited case law does not  
3 apply to the disqualification of one's counsel's sub-contractor.
- 4 3) Commonwealth Marketing Group (CMG) – whose contract has  
5 already been introduced into evidence by Impulse sent a “cease  
6 and desist” letter to Impulse dated February 9, 2004 to stop it  
7 from sending emails to “gordonworks.com”. Impulse is  
8 withholding all documents which I have requested via  
9 discovery. It is my belief that these documents will substantiate  
10 the declarations made by me and further support the posture of  
11 CMG and Impulse indicated by the attached exhibit. **Exhibit 1**
- 12 4) Prior to this letter (Ex 1) by CMG, Impulse assured CMG that  
13 it was Can-Spam compliant. **Exhibit 2** However, Impulse  
14 continued to send spam to gordonworks.com through December  
15 2005 – a per se violation of Can-Spam and RCW 19.190 et seq,  
16 despite Impulse's assurances to CMG that it was using  
17 suppression or scrub lists to ensure compliance. Impulse is  
18 sending spam to my new domain as recently as March 2006.
- 19 5) Impulse's reliance on accusations of a scheme and the concepts  
20 of indemnification and contribution “fail” in light of the fact  
21 that internal documents from Impulse and external documents  
22 from CMG, which indicate that Impulse's Ken Adamson,  
23 Jeffrey Goldstein, and John Huston – at a minimum, knew that  
24 no email was to be sent to the email address which bears my  
25 name at “gordonworks.com”. Despite this knowledge, each man,  
individually and as a collective, failed to reign in the torrent of

Same  
as  
Bonnie  
Gordon  
#2

Same  
as  
Bonnie  
Gordon  
#3

Same  
as  
Bonnie  
Gordon  
#4

2

1 email being sent to "gordonworks.com. My causes of action  
2 versus Impulse will bring out more of its scheme or conspiracy  
3 to defraud me.

- 4 6) Impulse's reliance on the assertions of fraud and deceit,  
5 tortious interference, malicious prosecution and breach of  
6 contract (even if there was a contract [which I deny] it was  
7 rescinded via unsubscribe requests in October 2003 starting  
8 with Exhibit 3) fail because of the evidence of opt-out requests  
9 as early as October 1, 2003. These opt-out requests along with  
10 the communications between CMG and Impulse indicate a good  
11 faith effort to extricate me from the failed attempt to obtain a  
12 prize, which ultimately proved to be part of a fraudulent free  
13 prize scheme by Impulse to steal my identity. **Exhibit 3**
- 14 7) Impulse's "prayer" for an injunction appears to be pure  
15 sophistry as the documents above indicate that Impulse has  
16 refused to honor unsubscribe requests by "gordonworks.com"  
17 email addressee(s). Further, Impulse has re-framed its refusal  
18 into a story about its fabricated victimization. In addition to  
19 ignoring opt-out requests from "gordonworks.com", Impulse  
20 ignored edicts from CMG and its own internal suppression  
21 guidelines – making it answerable to no one. It is Impulse and  
22 its marketing partners' behaviors that led to any and all  
23 damages incurred by Plaintiff and the undersigned. Damages  
24 proffered by Impulse, allegedly as a result of a scheme, are  
25 illusory or self-inflicted.

- 8) Impulse's causes of action are based on a lie (or series of lies),

Same  
as  
Bonnie  
Gordon  
#5

Same  
or  
similar  
to  
Bonnie  
Gordon  
#6

Same  
or  
similar  
to  
Bonnie  
Gordon  
#7

44



1 for example, a) I participated in a scheme to defraud it b) I  
2 opted into one or more of its websites c) I opted out of one or  
3 more of its websites d) I opted in and opted out, repeatedly e)  
4 Impulse believed that 3<sup>rd</sup> party defendants' subscriber profiles  
5 were inaccurate and untruthful f) I solicited emails in order to  
6 file multiple lawsuits (strictly speaking I have filed no lawsuits  
7 against anyone – my counterclaims and causes of action against  
8 Impulse were prompted by the pre-existing specious lawsuit by  
9 Impulse – I have sued no one else) g) Impulse has sustained  
10 financial loss and continues to accrue losses due to action(s) by  
11 Plaintiff and 3<sup>rd</sup> party defendants. Had Impulse done as it was  
12 instructed to do by its principal, CMG, this lawsuit may have  
13 been averted altogether. Impulse's Adamson letter of 10/23/03  
14 acknowledges Impulse's placement of "gordonworks.com" "in a  
15 file of blocked and/or suppressed recipients – ALL email after  
16 this time VIOLATED Impulse's and CMG's corporate policies  
17 as well as state and federal civil and criminal laws as outlined  
18 in my causes of action versus Impulse.

- 19 9) Based on an email [Exhibit <sup>6b</sup> X] and discussion with my father,  
20 we both understood Mr. Ivey was "his" attorney and that all  
21 that was discussed between the two of them was privileged. I  
22 was shocked to hear that Mr. Ivey had switched sides as I had  
23 also contacted him about a separate personal legal matter. The  
24 documents in my possession appear to reveal a betrayal of my  
25 father and a skirting of the truth by Mr. Ivey. **Exhibit 4** –  
email dated 9/22/03; **Exhibit 5** – email dated 9/25/03; **Exhibit**

Similar  
to -  
Bonne  
Balan  
H. H.

Similar  
to -  
Bonne  
Balan  
H. H.

45

6 – dated 9/30/03 to me; Exhibit 7 – dated 12/30/03; Exhibit 8 – dated 4/4/05.

- 10) I find it peculiar that Mr. Ivey would retain my father's email from 2002, but not the relevant 2003 emails.
- 11) **Exhibit 7** lists the case of Gordon v. Commonwealth Marketing Group, Inc. The actual mention of CMG was via hyperlink to a web site created by my father, which contained detailed information about the lawsuit and emails and the analysis of the email – I believe the web site has been taken down. On the surface, it appears that Mr. Ivey has direct intimate knowledge of both sides in the instant conflict. Impulse argues “the relevant test for disqualification is whether the former representation is ‘substantially related’ to the current representation” – Gas-A-Thon citation. The substantially related argument is buttressed by Impulse’s assertion/claim in its Motion to Dismiss based on “res judicata” (circa January 2005) that the corpus of email was **identical**.
- 12) Mr. Ivey et al have criticized my interrogatories, it appears that Impulse believes that I am simply parroting words for/from Plaintiff. Mr. Ivey fails to mention that I now have legitimate claims of my own (I have contemplated these counterclaims since the inception of the “slapp suit”). These new claims include a cause of action for statutory damages under RCW 19.190 et seq and Can-Spam as Impulse has insinuated itself into web sites which do not disclose a link to Impulse. Apparently, Impulse claims that it is a spammer’s marketing

Same  
Similar  
Bonne  
Gordon  
H10

Same  
Similar  
Bonne  
Gordon  
H11

Same  
Similar  
Bonne  
Gordon  
H8

6

46

1 partner simply because it bought or sold an email list from that  
2 spammer. Impulse has failed to disclose via interrogatories and  
3 requests for production its list of so-called marketers or extant  
4 contracts with same - ostensibly to avoid being painted with the  
5 same brush as these "fly-by-night" criminal spam gangs. For  
6 this pro se defendant, the distinction between Plaintiff's claims  
7 and mine, if there is one, is not discernible to me.

- 8 13) Impulse knows that it is suing pro se defendants. Pro Se  
9 defendants by definition are typically not attorneys. As a result,  
10 pro se defendants will make mistakes. Impulse has seized every  
11 opportunity to threaten and intimidate 3<sup>rd</sup> party defendants in  
12 terms of filings made and the errors which ensue. The primary  
13 threat has been for sanctions for making mistakes. If allowed,  
14 these sanctions would render 3<sup>rd</sup> party defendants "paralyzed"  
15 in terms of mounting our legal self-defense. It is highly likely  
16 that 3<sup>rd</sup> parties will make more mistakes in our self-defense.  
17 As a matter of equity, this Court, I trust, will adjudge each  
18 filing made by a 3<sup>rd</sup> party defendant on a good faith proffer of  
19 facts - not my legal education or lack thereof.

- 20 14) I do not want to have to interact with Mr. Ivey et al because of  
21 his tendency to intimidate/threaten. There is a "veiled" threat  
22 by Mr. Ivey on page 10 of his memorandum suggesting that my  
23 father is "practicing law". This is not the first time that he has  
24 levied such a charge. If Impulse wishes to engage in another  
25 side show or ruse, then I would be happy to testify along with  
my family and my father's friends as to the role he has played

Bornie  
Gordon  
#18

Same  
Smila  
Bornie  
Gordon  
#12

Same  
Smila  
Bornie  
Gordon  
#13

Q

1 in this case – this calculated merit-less distraction is a waste of  
2 judicial resources predicated on the realization that Impulse's  
3 theory of the case is smoke and mirrors – something that our  
4 jury will clearly see.

- 5 15) My opinion is that Mr. Ivey is not a man of his word. That is  
6 the reason why I have requested my father's help. He has  
7 buffered me from the day-to-day skirmishes with Impulse.  
8 However, he has not submitted anything to the Court on my  
9 behalf without my input and foreknowledge. It appears that  
10 Impulse could correspond via email [to my father and copying  
11 3<sup>rd</sup> parties and Mr. Siegel] or suggest yet another way to  
12 overcome the impasse regarding the need to communicate in  
13 this case. We have been pulled into Impulse's mean-spirited  
14 and illegal charade, but we will defend ourselves to the best of  
15 our collective abilities.

16 I declare under penalty of perjury under the laws of the United States  
17 that the foregoing is true and correct.

18  
19 Jamila E. Gordon

20 9804 Buckingham Drive

21 Pasco, WA 99301

22 509-210-1069

23 EXECUTED this 20th day of March, 2006  
24   
25

DECLARATION RESPONSE- 8

48 

## Certificate of Service

I, hereby, certify that on March 20, 2006, I filed this affidavit with this Court. I have served Bob Siegel, Peter J. Glantz, Sean A. Moynihan, Floyd E. Ivey, Bonnie Gordon, James Gordon III, Jonathan Gordon, Emily Abbey, and Robert Fritchett by other means.

*Amelia Gray*



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2 judicial resources predicated on the realization that Impulse's  
3 theory of the case is smoke and mirrors – something that our  
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13 this case. We have been pulled into Impulse's mean-spirited  
14 and illegal charade, but we will defend ourselves to the best of  
15 our collective abilities.

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17 that the foregoing is true and correct.  
18

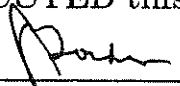
19 Jamila E. Gordon

20 9804 Buckingham Drive

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23 EXECUTED this 20th day of March, 2006

24  P O A  
25



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Don P.O.A.



One Millennium Drive  
Uniontown, PA 15401  
Phone: (724) 437-3707

February 9, 2004

Jeff Goldstein  
Impulse Marketing Group, Inc.  
Five Concourse Parkway, Suite 950  
Atlanta, GA 30328

Facsimile: (678) 805-2101

Re: James S. Gordon, Jr. v. Commonwealth Marketing Group, Inc.

Dear Jeff:

Commonwealth Marketing Group, Inc. (CMG) hereby gives notice to Impulse Marketing Group, Inc. (IMG) to immediately cause IMG affiliated marketers, offerclicks and freebiegazette, to cease representing, in any and all manner whatsoever, IMG on behalf of CMG, unless and until IMG provides CMG with assurance that it has caused all of its affiliated marketers, including the two mentioned above, to cease and desist from sending messages, to the gordonworks.com e-mail domain.

CMG finds it necessary to take this drastic action as, despite repeated telephone conversations with IMG officers and staff of the need to act immediately on this extremely urgent matter, we learned today that the gordonworks.com domain continues to receive messages from IMG affiliated marketers. Specifically, on January 7, I wrote to you, attached a copy of an Order of Court of Benton County, Washington, against me, personally, CMG and IMG, enjoining the sending of e-mail messages to James Gordon. On January 9, John Fonzo, CMG Vice President and General Counsel, wrote to IMG's Phil Huston, requesting assurances concerning IMG CAN SPAM Act and state anti-Spam law compliance. (Gordon's lawsuits against CMG was filed pursuant to the Washington anti-Spam law). On February 2, Mr. Fonzo again wrote to Phil Huston, informing IMG in writing of our previous oral notification of the Gordon vs. CMG litigation, and raising indemnification issues under the CMG-IMG Website Development and Marketing Services Agreement.

It is my understanding that IMG's lawyers have responded in writing to the January 9 letter concerning SPAM law compliance, providing assurances of IMG compliance. Further, on multiple occasions, CMG has forwarded to IMG several e-mail messages as provided by James Gordon to me, for research and evaluation as to, among other things, origin of the messages, any evidence of Gordon opt-ins, as well as evidence of cessation of messages, to the extent they originated from an IMG affiliated marketer. My staff

CMG 000052

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advises that they have had continuous dialogue with IMG technical staff as to these messages, together with certain assurances that proper safeguards were put in place to make certain that additional messages are not sent to Mr. Gordon.

What is equally troubling to me is that IMG was first notified of Gordon's alleged receipt of SPAM in September of 2003, immediately upon CMG's receipt of notice from Gordon of the allegations. Certainly, IMG has had sufficient time to address this serious situation. Thus, you can imagine my confusion, anger and embarrassment when I received from James Gordon on February 7, yet two additional e-mail messages that appeared to have originated from IMG affiliated marketers.

Jeff, it is absolutely imperative that this situation be addressed immediately. Given the long and productive business relationship that CMG and IMG has enjoyed, you must see this demand for IMG affiliated marketers who send messages to gordonworks.com, including the two mentioned above, to cease and desist representing IMG on CMG products as a final effort to get IMG's attention to do what is legally required and commercially responsible.

Please call me immediately upon receipt. At that time, we can direct to the person at IMG who will give this their undivided and immediate attention, the most recent e-mail messages received from James Gordon.

Sincerely,



Robert E. Kane  
President & CEO

CMG 000053

53

13

Case 2:04-cv-05125-FVS Document 297 Filed 03/20/2006 <sup>Exhibit 2</sup>  
**KLEIN, ZELMAN, ROTHERMEL & DICHTER, L.L.P.**

ATTORNEYS AT LAW  
485 MADISON AVENUE  
NEW YORK, NEW YORK 10022-5803

TEL (212) 935-6020

FAX (212) 753-8101

e-mail: kzrd@kzrd.com

STEPHEN B. HANSBURG  
OF COUNSEL

FRED C. KLEIN  
ANDREW E. ZELMAN  
JOAN EBERT ROTHERMEL  
JOEL P. DICHTER  
JANE B. JACOBS  
NANCY B. SCHLESS  
DAVID O. KLEIN  
LAURENCE J. LEBOWITZ  
SEAN A. MOYNIHAN

JOHN T. UM  
JOSHUA D. ROSE  
DEENA B. BURGESS

February 3, 2004

VIA FIRST CLASS MAIL

John P. Fonzo, Esq.  
Vice President & General Counsel  
Commonwealth Marketing Group  
One Millennium Drive  
Uniontown, PA 15401

Re: CAN-SPAM compliance

Dear Mr. Fonzo:

Please be advised that this firm represents Impulse Marketing Group, Inc. ("Impulse"). We write in response to your January 9, 2004 correspondence addressed to Mr. Phil Huston, in which you request that Impulse detail the steps that it has taken to comply with the provisions of the CAN-SPAM Act of 2003 ("CAN-SPAM" or the "Act"), specifically as they relate to the services that Impulse provides to Commonwealth Marketing Group ("Commonwealth") under contract dated December 10, 2001 (the "Agreement"). Impulse has assured us that during the life of its relationship with Commonwealth, it will at all times provide services to Commonwealth in strict conformance with the requirements of CAN-SPAM and any subsequent amendments. In furtherance of this commitment, Impulse is amenable to crafting a mutually acceptable rider to the existing Agreement that will address the parties' respective CAN-SPAM obligations, while providing reciprocal indemnification provisions that will be triggered should either party at any time fail to comply with the Act.

As of January 1, 2004, Impulse has implemented the following internal procedures so that its business is conducted in accordance with CAN-SPAM regulations. In particular, and without limitation, Impulse ensures that each and every commercial e-mail that it sends, or has sent through a third party, contains: accurate header information; correct domain name and/or IP address; "subject" and "from" lines that are not fraudulent, deceptive or misleading; a functioning return/reply e-mail address for unsubscribe purposes and an unsubscribe hyperlink

{00062027;2}

CMG 000050

54

*[Handwritten signature]*

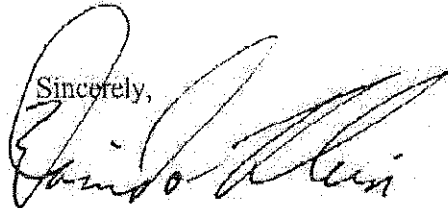
KLEIN, ZELMAN, ROTHERMEL &amp; DICHTER, L.L.P.

*John P. Fanzo, Esq.**February 3, 2004**Page 2*

that is functional for thirty (30) days after the applicable e-mail transmission date; language identifying such commercial e-mail as an advertisement or solicitation; and valid, physical mailing addresses (not P.O. boxes) for both Impulse and its advertiser-clients, such as Commonwealth. As required by the Act, Impulse processes all unsubscribe requests within ten (10) days of receiving such requests, if not sooner. Each unsubscribed e-mail address is then transferred to the Impulse suppression list. This list is updated on a daily basis, divided up into separate advertiser-specific suppression lists and made available to the applicable advertiser-clients for their own internal scrubbing and suppression purposes.

Should you have any further questions on the CAN-SPAM compliance measures taken by Impulse, please contact me at your convenience. We will begin drafting the CAN-SPAM rider next week and will have same for your review promptly thereafter. I look forward to working with you.

Sincerely,



David O. Klein

cc: Phil Huston

55

X5

EmailPrize.com, 07:07 AM 10/1/2003 -0700, Unsubscribed Successful!

Page 1 of 1

Case 2:04-cv-05125-FVS

Document 297

Filed 03/20/2006

Exhibit 3

X-Persona: &lt;ValueWeb&gt;

Received: from cust\_req\_fwding (james@gordonworks.com --&gt; jim@gordonworks.com) by ams.ftl.affinity.com id &lt;216611-20680&gt;; Wed, 1 Oct 2003 10:08:34 -0400

Received: from relay02.mindsharedesign.com ([216.39.113.10]) by ams.ftl.affinity.com with ESMTP id &lt;216875-20663&gt;; Wed, 1 Oct 2003 10:07:39 -0400

Received: from i.pm0.net (i.pm0.net [216.39.113.141])

by relay02.mindsharedesign.com (Postfix) with ESMTP id A6E31643B

for &lt;james@gordonworks.com&gt;; Wed, 1 Oct 2003 07:05:16 -0700 (PDT)

Received: (from pmguser@localhost)

by i.pm0.net (8.12.8/8.12.2/Submit) id h91E7bxU007989;

Wed, 1 Oct 2003 07:07:37 -0700 (PDT)

Date: Wed, 1 Oct 2003 07:07:37 -0700 (PDT)

Message-Id: &lt;200310011407.h91E7bxU007989@i.pm0.net&gt;

From: "EmailPrize.com" &lt;pmgsender@returns.mb00.net&gt;

To: &lt;james@gordonworks.com&gt;

X-PMG-Userid: emailprize

X-PMG-Msgid: unsubscribe

X-PMG-Recipient: james@gordonworks.com

Subject: Unsubscribed Successful!

MIME-Version: 1.0

Content-Type: text/plain; charset="iso-8859-1"

You have been unsubscribed to the EmailPrize Newsletter. We are sorry to see you leave.

EmailPrize.com

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X6



From: "floyd ivey" <feivey@3-cities.com>  
 To: "Jim Gordon" <res08nqc@verizon.net>  
 Subject: Re: Help With District Courts Complaints  
 Date: Mon, 22 Sep 2003 10:29:23 -0700  
 X-Mailer: Microsoft Outlook Express 6.00.2800.1158

Jim,

Thanks for the interesting note. I certainly have an interest but will first point you to direct contact with the Attorney General's office. They may be able to indicate the extent of their efforts and may have an interest in your work.

Moving a positive result in District Court to a meaningful prospect of gaining dollars will likely be difficult. The Attorney General may have a clear perspective of the possibility of having success via litigation.

Please let me know the nature of any contact you might have with the AG.

Floyd E. Ivey

----- Original Message -----

From: "Jim Gordon" <res08nqc@verizon.net>  
 To: <feivey@3-cities.com>  
 Sent: Monday, September 22, 2003 8:15 AM  
 Subject: Help With District Courts Complaints

> Floyd:  
 >  
 > I would like you to consider the following information as I will need help  
 > completing the work that I have outlined, below...  
 >  
 > I have taken the following affirmative steps to reduce the 600+ emails  
 > that  
 > I have been receiving every day since 1998:  
 >  
 > 1. I purchased forensic software to allow me to trace the origin of  
 > emails.  
 > 2. Mailed demand letters to individuals and entities that have spammed me.  
 > Each letter contained the following info:  
 >     a. A two page copy of RCW 19.190 - WA anti-spam statute  
 >     b. Copies of the unlawful headers from the email that the  
 > spammers  
 > sent to me.  
 >     c. Demand for damages of \$500 per violation - the threshold for  
 > sending a letter was 10 violations or more  
 > 3. Mailed a total of 30 demand letters to the most egregious violators of  
 > this law.  
 >  
 > Currently, I have drafted a complaint - the draft was based on a template  
 > from a successful defense of RCW 19.190 in Western WA. I am seeking an  
 > attorney to "perfect" my complaint so that I may file it in District  
 > Court.  
 > In the alternative, I may want to hire an attorney to represent me in  
 > court.  
 >  
 > An interesting side note is since the demand letters were delivered to  
 > these spammers, a few have continued to send their spam "flaunting" our  
 > law. I believe that there is a second cause of action (perhaps harassment)

0003

Printed for Jim Gordon <Kamau@charter.net>

10/2/2005

57

X

From: "floyd ively" <feivey@3-cities.com>  
To: "Jim Gordon" <res08nqc@verizon.net>  
Subject: Re: Article from Wired World  
Date: Thu, 25 Sep 2003 09:38:24 -0700  
X-Mailer: Microsoft Outlook Express 6.00.2800.1158

Jim,

The problem with present resistance to spam is the cost. That is, it will cost \$225/hour for me to explore with no clear ability to find a solution. Further, should you actually locate a spammer there would be doubt regarding the ability to collect on any judgment.

In the mean time someone has commenced such a lawsuit. I haven't heard re: the status for months. And the Attorney Generals of many states are likely looking at the issue.

Thus others are doing the work at no expense to you. There will be a real budget needed for you to commence the effort. Please advise if you want to examine the prospect of going forward.

Floyd

----- Original Message -----

From: "Jim Gordon" <res08nqc@verizon.net>  
To: <feivey@3-cities.com>  
Sent: Thursday, September 25, 2003 9:09 AM  
Subject: Article from Wired World

> Floyd:

>

> My domain name - gordonworks.com is under siege. Whether we consider my  
> domain name intellectual PROPERTY or personal PROPERTY, this property is  
> being encroached upon - to the tune of 4MB+ every day. This encroachment  
> displaces my computer's memory with unsolicited - even unlawful commercial  
> email.

>

> I have kept records of this spam since 8/6/03. In that time (51 days), I  
> have received 122MB of spam. In the past 24 hours, I have received 4.6MB  
of

> spam. I am feeling a since of urgency...

>

> One might ask why I don't simply filter and delete these email. I have  
been

> filtering and deleting email since 1998. During that time, my daily volume  
> of email approached 1500 messages per day. I found that filters can be  
> defeated/circumvented - so I spent time revising and updating my filters.  
> My collection of spam (over 20,000 messages) now serves one purpose - that  
> of being evidence against those who spam me and millions of others.

>

> My spam problem was an imposition on my business and it is an imposition  
on

> my personal use of the Internet. Therefore, I have chosen to stop running  
> and hiding from spam. I believe that Washington's anti-spam statute was  
> designed to prevent much of the abuse that I am experiencing.

>

> The article below discusses the concept of "trespass" as it pertains to  
> spam...I experience this sense of being trespassed upon each time that I  
> check my email - 6+ times per day.

0019

file://C:\DOCUME~1\JIMGOR~1\BUS\LOCALS~1\Temp\leud11.htm

10/2/2005

58

X8

Jamila & Tommy, 01:26 PM 9/30/2003 -0700, Update

---

To: "Jamila & Tommy" <jamila@charter.net>

From: Jim Gordon <res08nqc@verizon.net>

Subject: Update

Cc:

Bcc: bonnie.gordon@verizon.net

Attached: C:\Temp\Spam Complaint Form\_files\Complaints\pleadingdraftAmericanHomeownersASSN.doc; C:\Temp\Spam Complaint Form\_files\Complaints\pleadingdraftTheodorehansson.doc;

Jamila:

Please hold on to the attachments - they are templates for future litigation. The email accounts for the family have the following totals:

<u>Name</u>	<u>Total Emails (unresearched)</u>	<u>Unlawful spam (researched)</u>
Bonnie	1505	153
James	3409	343
Jamila	1132	94
Jay	1552	124
Jon	1138	95

The complaints that I drafted for my attorney, Floyd Ivey, are attached. Each unlawful spam could be worth \$500 - if we prevail in court

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19

Exhibit 7

feivey@3-cities.com, 11:13 AM 12/30/2003 -0800, Status

To: feivey@3-cities.com  
From: Jim Gordon <res08nqc@verizon.net>  
Subject: Status  
Cc:  
Bcc:  
Attached:

Floyd:

On Wednesday, the 24th a Superior Court judge gave me an early Christmas present in the form of two temporary restraining orders against two of the companies that have been spamming me. On January 8th, 2004, I will appear in Superior Court to request a permanent injunction against these companies and their agents.

Below are links to the steps that I have taken to stop the spamming.

Here's a link to the online Herald-Standard.

[http://www.heraldstandard.com/site/news.cfm?newsid=10686398&BRD=2280&PA G=461&dept\\_id=480247&rfi=8](http://www.heraldstandard.com/site/news.cfm?newsid=10686398&BRD=2280&PA G=461&dept_id=480247&rfi=8)

<http://www.gordonworks.com/spam>

<http://www.gordonworks.com/spam/TedHansson.htm>

<http://www.gordonworks.com/spam/CommonwealthMarketingGroup.htm>

If I prevail in these initial lawsuits, there are over 70 more anti-spam lawsuits that I wish to file in Superior and District Courts. If you are still interested, in what way do you envision assisting me?

Seasons Greetings,  
Jim Gordon

60

20

Akers, Doug E, 08:47 AM 4/4/2005 -0700, RE: FW: Battelle Contract for Review

---

To: "Akers, Doug E" <doug.akers@pnl.gov>  
From: Jim <Kamau@charter.net>  
Subject: RE: FW: Battelle Contract for Review  
Cc:  
Bcc:  
Attached:

Actually it is Doug McKinley v Floyd Ivey

At 07:48 AM 4/4/2005 -0700, you wrote:

By chance are you working with Dave Broussard? Good Guy

Look forward to hear from one of them.

Take Care

Doug

-----Original Message-----

From: Jim [mailto:Kamau@charter.net]  
Sent: Saturday, April 02, 2005 8:30 AM  
To: Akers, Doug E  
Cc: Shoemaker, Steven V  
Subject: Re: FW: Battelle Contract for Review

Doug:

I have not had an opportunity to take this contract to an attorney yet - because the two attorneys that I typically use are facing one another - one for me and the other against (yes, it technical is a conflict of interest, but...). The attorney that is for me, does work for the Lab, which makes advising me a possible conflict of interest - so, I may go to a third attorney...

I appreciate you diligence on the preparation of this document and will get legal advice as soon as possible.

Best Regards,  
Jim

At 07:29 AM 3/7/2005 -0800, you wrote:

Jim,

Here it is. Hopefully it will make it through this time.

Doug

-----Original Message-----

From: Akers, Doug E  
Sent: Tuesday, February 22, 2005 12:07 PM  
To: 'jim@gordonworks.com'  
Cc: Shoemaker, Steven V; Strycker, Forest E Jr  
Subject: Battelle Contract for Review

Jim,

6-1

21

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

MAR 20 2006

JAMES R. LARSEN, CLERK  
DEPUTY  
RICHLAND, WASHINGTON

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN  
DISTRICT OF WASHINGTON AT RICHLAND

James S. Gordon, Jr., Plaintiff,

vs.

Impulse Marketing Group, Inc.,

Defendant

Impulse Marketing Group, Inc.,

Third-Party Plaintiff,

v.

Jonathan K. Gordon, Third-Party

Defendant

Case No.: CV-04-5125-FVS

MOTION TO COMPEL AND FOR  
SANCTIONS & DECLARATION  
RE: DISCOVERY

TO: Clerk of the Court

AND TO: Floyd E. Ivey, Attorney for Third-Party Plaintiff

62



## Introduction

I do not know the proper procedure for overcoming the impasse in terms of conferring with Impulse regarding this case as Mr. Ivey informed us that he will not contact my father, the Plaintiff, in this matter. On the one hand, Mr. Ivey had an exchange with my mother, Bonnie Gordon, via email and phone regarding discovery. And, on the other hand, those "communications" did not alter the outcome of the process, i.e. Impulse still failed to produce answers to the questions asked or to produce documents that should have accompanied the discovery request.

In light of my recently filed answer and counterclaims against Impulse, all requests Impulse deemed irrelevant, etc. are unequivocally relevant and demand full disclosure under FRCP 37 (a)(2) (3).

It is hypocritical for Impulse to 1) complain that it is not receiving adequate discovery by Plaintiff yet hamper each attempt to obtain discovery by 3<sup>rd</sup> parties 2) invoke a rule regarding conferring with opponent before filing and then refuse to comply with discovery in any meaningful way – an attempt to have it both ways – benefiting from an impasse Impulse is a party to creating 3) threaten sanctions from 3<sup>rd</sup> parties for failing to obey a rule, which Impulse thwarts by denying me required inputs to my self-defense. 4) allege that I along with other 3<sup>rd</sup> parties are propounding questions and production requests as if for my father. However, I have considered filing a counter suit against Impulse since its initial false claims against me roughly six months ago. And with my answer and counterclaims, it appears that my claims mirror

1 those of my father in many or most ways. Thus my discovery requests  
2 are legitimate and require full disclosure and compliance with  
3 applicable rules 5) squander close to 120 days since the statue  
4 conference in the Fall of 2005 – requested ostensibly to conduct  
5 discovery – with no discovery propounded by Impulse to 3<sup>rd</sup> parties. The  
6 notion that Impulse's reason for not propounding discovery during this  
7 period of time was due to any concern for 3<sup>rd</sup> party defendants is  
8 ludicrous in light of mean-spirited direct and indirect attacks on 3<sup>rd</sup>  
9 parties.

10 Third Party Defendant moves the Court to Compel (discovery)  
11 compliance and for Sanctions against Third Party Plaintiff as its  
12 responses to Third Party Defendant's Interrogatories and Request for  
13 Production of Documents are evasive, incomplete, and non-responsive.  
14 These documents were placed in US Mail on or about January 23, 2006.  
15 Impulse has also failed to make the required Rule 26 disclosures to the  
16 undersigned.

17 **Interrogatories & Requests for Production**

18  
19 Impulse's response is replete with objections due to relevancy, privilege,  
20 undue burden, etc.

21  
22 Third party Defendant moves the Court to award Sanctions per FRCP  
23 37(a)(4) in an amount equal to or greater than the Sanctions demanded  
24 by Impulse of Plaintiff. Or, in the alternative, simply require/order  
25 compliance with the rules.

64

1  
2 I declare under penalty of perjury under the laws of the United States  
3 that the foregoing is true and correct.

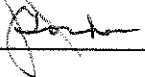
4 Jonathan K. Gordon, Pro Se

5 9804 Buckingham Drive

6 Pasco, WA 99301

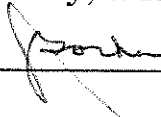
7 509-210-1069

8 EXECUTED this 20<sup>th</sup> day of March, 2006.

9  P D A  
10 \_\_\_\_\_

11 Certificate of Service

12 I, hereby, certify that on March 20, 2006, I filed this motion with this  
13 Court. I have served Bob Siegel, Peter J. Glantz, Sean A. Moynihan,  
14 Floyd E. Ivey, Bonnie Gordon, James S. Gordon III, Jamila Gordon,  
Emily Abbey, and Robert Pritchett by other means.

15  P D A  
16 \_\_\_\_\_  
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FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

MAR 20 2006

JAMES R. LARSEN, CLERK  
DEPUTY  
RICHLAND, WASHINGTON

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN  
DISTRICT OF WASHINGTON AT RICHLAND

James S. Gordon, Jr., Plaintiff,

vs.

Impulse Marketing Group, Inc.,  
Defendant

Impulse Marketing Group, Inc.,  
Third-Party Plaintiff,

v.

James S. Gordon III, Third-Party  
Defendant

Case No.: CV-04-5125-FVS

MOTION TO COMPEL AND FOR  
SANCTIONS & DECLARATION  
RE: DISCOVERY

TO: Clerk of the Court

AND TO: Floyd E. Ivey, Attorney for Third-Party Plaintiff

66

## Introduction

I am neither Solomon nor an attorney nor a judge. I do not know the proper procedure for overcoming the impasse in terms of conferring with Impulse regarding this case as Mr. Ivey informs us that he will not contact my father, the Plaintiff, in this matter. On the one hand, Mr. Ivey had an exchange with my mother, Bonnie Gordon, via email and phone regarding discovery. And, on the other hand, those "communications" did not alter the outcome of the process, i.e. Impulse still failed to produce answers to the questions asked or produce documents that should have accompanied the discovery request.

In light of my recently filed answer and counterclaims against Impulse, all requests Impulse deemed irrelevant are unequivocally relevant and demand full disclosure under FRCP 37 (a)(2) (3).

It is, at best, disingenuous for Impulse to 1) complain that it is not receiving adequate discovery by Plaintiff who has provided two detailed WORD (1,989 pages) documents (now Bates stamped) with annotations denoting errors and omissions to Impulse – I know this process well because I helped him for months to do the analyses of thousands of emails 2) invoke a rule regarding conferring with opponent before filing and then refuse to comply with discovery in any meaningful way – an attempt to have it both ways – benefiting from an impasse Impulse is a party to creating 3) threaten sanctions from 3<sup>rd</sup> parties for failing to obey a rule, which Impulse thwarts by denying me required inputs to my self-defense. 4) allege that I along with other 3<sup>rd</sup> parties are

1 propounding questions and production requests as if for my father.  
2 However, I have considered filing a counter suit against Impulse since  
3 its initial false claims against me roughly six months ago. And with my  
4 answer and counterclaims, it appears that my claims mirror those of my  
5 father in many or most ways. Thus my discovery requests are legitimate  
6 and require full disclosure and compliance with applicable rules 5)  
7 squander close to 120 days since the status conference in the Fall of  
8 2005 – requested ostensibly to conduct discovery – with no discovery  
9 propounded by Impulse to 3<sup>rd</sup> parties. The notion that Impulse's reason  
10 for not propounding discovery during this period of time was due to any  
11 concern for 3<sup>rd</sup> party defendants is ludicrous in light of mean-spirited  
12 direct and indirect attacks on 3<sup>rd</sup> parties.

13 Third Party Defendant moves the Court for Sanctions and to Compel  
14 Third Party Plaintiff's Responses to Third Party Defendant's  
15 Interrogatories and Request for Production of Documents. These  
16 documents were placed in US Mail on or about January 23, 2006. I am  
17 the only 3<sup>rd</sup> party defendant to my knowledge who did not automatically  
18 extend a two week deadline for receipt of discovery. That fact did not  
19 change Impulse's output as it is virtually identical to other 3<sup>rd</sup> parties in  
20 terms of being evasive, incomplete, and non-responsive (including the  
21 untitled, undated, and "author-less" spreadsheet, which is useless).  
22 With the additional time, Impulse still failed to meet its burden under  
23 FRCP 37 (a)(2) (3)(4). Impulse has also failed to make the required Rule  
24 26 disclosures to the undersigned.  
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## Interrogatories & Requests for Production

Impulse has apparently blended or mixed up the responses between James S. Gordon III and Jonathan K. Gordon as captions do not match content.

Third party Defendant asks the Court to award Sanctions per FRCP 37(a)(4) in an amount equal to or greater than the Sanctions demanded by Impulse of Plaintiff. Or, in the alternative, simply require/order compliance with the rules.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

James S. Gordon III, Pro Se

9804 Buckingham Drive

Pasco, WA 99301

509-210-1069

EXECUTED this 20<sup>th</sup> day of March, 2006.

### Certificate of Service

I, hereby, certify that on March 20, 2006, I filed this motion with this Court. I have served Bob Siegel, Peter J. Glantz, Sean A. Moynihan, Floyd E. Ivey, Bonnie Gordon, Jonathan Gordon, Jamila Gordon, Emily Abbey, and Robert Pritchett by other means.